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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,081	04/13/2004	Timothy Elwell	105381-0002	3160
21125 7590 02/17/2009 NUTTER MCCLENNEN & FISH LLP WORLD TRADE CENTER WEST 155 SEAPORT BOULEVARD BOSTON, MA 02210-2604				
EXAMINER				
BATTULA, PRADEEP CHOUDARY				
ART UNIT		PAPER NUMBER		
3725				
NOTIFICATION DATE		DELIVERY MODE		
02/17/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

doctet@nutter.com

Office Action Summary

Application No.

10/823,081

Applicant(s)

ELWELL, TIMOTHY

Examiner

PRADEEP C. BATTULA

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-14,17,21,22,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-14,17,21,22,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 20, 2009 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 2, 6 – 14, 17, 21, 22, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Todman in view of Schramer et al. (Schramer; U.S. 5,044,776).

In regards to Claim 1, Todman discloses a security envelope 6 comprising: a dust jacket cover formed of a transparent front sheet 3 and a back sheet 4 (Column 2, Lines 41 – 45 teaches of the prior art bag; Column 3, Lines 51 – 52 teaches the structure is similar), the dust jacket cover having at least three sealed sides (Column 2, Lines 49 – 52 teaches of heat welding the longitudinal and lateral edges at 5; Figures 4 & 5, Item 5); an opening 8 formed in one of the front sheet and the back sheet (Column 2, Lines 55 – 57; Figures 4 & 5, Item 8), the opening communicating with a dust jacket-

receiving space 6 (Column 2, Lines 49 – 52; Figure 3, Item 6); a foldable flap 7 formed adjacent to the opening being formed from at least one of the front sheet or the back sheet (Column 2, Lines 52 – 54; Figures 3 - 5, Item 7); and a first adhesive layer 13 formed on a portion of the surface of the foldable flap (Column 2, Lines 58 – 59; Column 3, Lines 1 – 6; Figure 2, Item 13) and the foldable flap being adapted to be folded over the opening such that the first adhesive layer contacts the opening to seal a dust jacket within the dust jacket-receiving space (Column 3, Lines 58 – 66 teaches the tape 9, which has the adhesive 13, completely covers the slit 8 when the flap is sealed properly).

Todman does not disclose and a second adhesive layer formed on a side of the dust jacket cover opposite the first adhesive layer.

Schramer teaches of providing several closure means 30 (Column 5, Lines 35 – 37; Figure 8, Item 30) for closing an open portion of a bag where the bag is folds on itself in order to adhere to the closure means and conform to the amount of elements held in the bag (Claim 24, Column 10, Lines 30 – 42; such a folding will adhere opposite faces of the bag to the closure means). Todman teaches of one closure means for the contents and security thereof. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to duplicate the adhering means on the flap to the rear side and an accompanying means on the surface 3 in order to provide a security bag which is capable of being adjusted to contents of various size (Column 2, Lines 49 – 53). Furthermore, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art when an

unexpected result is not produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

With respect to the structure being a protective dust jacket cover, the structure as disclosed by Todman is capable of acting in such a way by simply placing the dust jacket inside and sealing it with holding section with the adhesive by the folding flap.

In regards to Claim 2, Todman modified by Schramer further discloses the dust jacket cover further comprising a protective strip 14 removably disposed over each of the adhesive layers (Column 3, Lines 6 – 10 and Figure 2, Item 14 of Todman; Furthermore closure means 30 of Schramer teaches of a releasable protective strip 40 in Column 5, Lines 26 - 34 and Figures 1, 6 - 8 Items 40, 30).

In regards to Claim 17, please review the rejection of Claims 1 and 2. Furthermore, Todman modified by Schramer further discloses such that upon removal of the protective strip to expose the first and second adhesive layers, the front and back portions are able to be adhered to each other to close the dust jacket-receiving opening and seal a dust cover within the dust jacket-receiving space (Column 2, Lines 49 – 54 teaches that the front 3, which has the slit is shorter than back 4 which has the flap 7. The flap 7 is connected to front 3 by adhesive 13 to connect the front and back portions and is used to seal the slit 8 as taught by Column 3, Lines 24 – 30; Todman).

In regards to Claims 6 and 21, Todman modified by Schramer further discloses wherein the opening is formed adjacent a top end of the dust jacket cover and extends substantially along the width of the one of the first layer and the second layer (Column 2, Lines 55 – 57 teaches of the slit 8 being extending across the face 3 to each weld

zone which in Figures 4 and 5 show it is substantially along the width of the first layer.

The Figures further show it is adjacent the top end).

In regards to Claim 7, Todman modified by Schramer further discloses wherein a bottom end and opposed sides of the protective dust jacket are sealed (Column 2, Lines 49 – 52 teaches that all the lateral and longitudinal ends of the sheets are heat welded at weld zone 5; Todman).

In regards to Claim 8, Todman modified by Schramer further discloses wherein the front and back sheets are integral with one another (Column 2, Lines 41 – 45) and the bottom end is formed by a fold between the front and back sheets (Column 2, Lines 41 – 45 teaches that the unitary sheet is folded at 2 to form the front and back sheets 3 and 4 - Figure 3, Item 2; Todman).

In regards to Claims 9 and 19, Todman modified by Schramer further discloses wherein the opposed sides of the dust jacket cover are heat sealed (Column 2, Lines 49 – 52 teaches that all the lateral and longitudinal ends of the sheets are heat welded at weld zone 5; Todman).

In regards to Claims 10 and 25, Todman modified by Schramer further discloses wherein the dust jacket- receiving space is impermeable to air, water, moisture, and pests when the foldable flap is closed and adhered (Column 3, Lines 24 – 30, 44 – 66 of Todman teaches that when the flap is adhered to cover the slit the slit is completely sealed and there is no access opening whatsoever to the interior of the bag and therefore the jacket is considered to be impermeable to air, water, moisture, and pests).

In regards to Claims 11 and 26, Todman modified by Schramer further discloses wherein the dust jacket cover is made from a flexible polymeric material (Column 2, Lines 41 – 45; Todman).

In regards to Claims 12 and 27, Todman modified by Schramer teaches of transparent polyethylene or polypropylene. Applicant's specification discusses that in one embodiment the flexible polymer is impervious to ultraviolet and infrared light. The specification further only lists polymers in the class of polyolefins with oriented polypropylene being particularly useful (Paragraph 022, 023). The prior art of Todman teaches of a transparent polypropylene material being used (Column 2, Lines 41 – 45). It is further noted that oriented polypropylene is used to make clear bags. Considering the only noted materials by applicant are the oriented polypropylene it can only be assumed that this is what is impervious to infrared and ultraviolet light. Todman teaches of this in Column 2, Lines 41 - 45 that the polypropylene is clear and the invention shows it is a bag type item. Therefore, by Applicant's disclosure, the material taught by Todman is also impervious to infrared and ultraviolet light.

In regards to Claim 13, Todman modified by Schramer further discloses wherein the polymeric material is a polyolefin (Column 2, Lines 41 – 45 of Todman teach that the cover is made of polyethylene or polypropylene and these two materials are known polyolefins).

In regards to Claim 14, Todman modified by Schramer discloses the claimed invention except for wherein each of the front sheet and the back sheet have a thickness in the range of about 1 to about 1.4 mils. However, there is absent any

criticality to the claimed range, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the range of thicknesses any thin range as was desired or expedient to an end user, including within the claimed range of about 1 to about 1.4 mils, particularly since it appears that Todman's envelope/bag/cover would function as intended with thicknesses in that range or within the undisclosed range of Todman's device (noting that they are both configured as an envelope/bag), since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

In regards to Claim 22, Todman modified by Schramer further discloses wherein the opening is a slit formed in the back portion adjacent to a top end of the dust jacket cover and the foldable flap is disposed above the slit (The manner in which the claims are written allow for this embodiment since the front and back portions can be used interchangeably between portions 3 and 4. If 3 is the back portion and 4 is the front portion the slit is still in the back portion and the flap still connects the back portion and front portion in an adhesive connection. Furthermore, the location of the flap is still adjacent the slit portion 8).

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

The Drawing Objections have been withdrawn due to the claim cancellation.

The Specification Objections have been withdrawn due to the claim amendments.

The 35 USC 112 rejections have also been withdrawn as Paragraph 0006 appropriately teaches of the folding over of the flap.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRADEEP C. BATTULA whose telephone number is (571)272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C. B./
Examiner, Art Unit 3725
February 11, 2009

/Dana Ross/
Supervisory Patent Examiner, Art Unit 3725